IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 17884 of 2003(D)

PETITIONERS:

----

1. **JOE ANTONY, CHETTIPUZHAKKARAN HOUSE, LOORDPURAM, THRISSUR-5.**

2. **THANKAMMA ANTONY, CHETTIPUZHAKKARAN HOUSE, LOORDPURAM, THRISSUR-5.**

BY ADV. SRI.M.P.ASHOK KUMAR, SMT.K.P.SREELAJA, SRI.M.P.HARIKUMAR (NEDUMBASSERY).

RESPONDENTS:

----

1. **V.SARADA RAMACHANDRAN, @ V.SARADA THAMPATTY,D/O. BHATRI VALIA RANI(L) NOW RESIDING IN GEETHA LATHA, 1154, MIN ROAD, R.M.C.EXTENSION, BANGALORE, PERMANENT RESIDENCE KALARI KOVILAGAM, KOLLENGODE VILLAGE, CHITTUR TALUK.**

2. **V.MEENAKSHI @ VIMALA THAMBATTI, KOLLENGODE PALACE, KOLLENGODE, PALAKKAD DISTRICT.**

3. **V.JAYALAKSHMI @ JAYASREE, KOLLENGODE PALACE, KOLLENGODE, PALAKKAD DISTRICT.**

4. **V.JAYARAJAN, KOLLENGODE PALACE, KOLLENGODE, PALAKKAD DISTRICT.**

5. **V.RAVI VARMA THAMPAN, PERINJATHAN, BROOK LAND ROAD, CONOOR, TAMIL NADU.**

6. VASUDEVA MENON, KOLLENGODE VENGUNAD,
KOVILAKAM, CHITTOOR TALUK, PALAKKAD DISTRICT.

7. MOHANA VARMA, KOLLENGODE VENGUNAD
KOVILAKAM, CHITTOOR TALUK, PALAKKAD DISTRICT.

8. MRS.PUSHPA BALASUBRAMANIAN,
KOLLENGODE VENGUNAD KOVILAKAM,
CHITTOOR TALUK, PALAKKAD DISTRICT.

9. ANURADHA VARMA, HILL PARK, CHENNAI.

10. AJITHA SATHRI VARMA, HILL PARK,
CHENNAI.

11. SUMANGALI VARMA, HILL PARK, CHENNAI

12. JAYALAKSHMI RAVEENDRAN,
"SHREYAS", PAPPANPETTY, COIMBATORE -16.

13. RAJAGOPAL @ MURALI,
M. 22E, SREE SUBHA COLONY, WEST K.K.NAGAR,
CHENNAI.

14. GAYATHRI MEHTA, NO.5, PARK TOWN,
BEHIND CHUNGAM, CHINTHAMANI, COIMBATORE.

15. SUPRIYA MENON,
D/O. JAYALAKSHMI REVEENDRAN,
BY POWER OF ATTORNEY HOLDER INDIRA R.THAMPAN,
"SHRAYAS", PAPPENPETTY, COIMBATORE.

16. CHANDRIKA SREEDARA VARMA,
W/O. LATE SREEDHARA VARMA THAMPAN,
MAHALAKSHMI FLAT, 5TH AVENUE, HARRISON ROAD,
CHETPAT, CHENNAI.

17. VIJAYA GOPAL, S/O. SREEDHARA VARMA,
MAHALAKSHMI FLAT, 5TH AVENUE, HARRISON ROAD,
CHETPAT, CHENNAI.

18. THE ADVOCATE RECEIVER IN OS 1/64,
DISTRICT COURT PALAKKAD, PALAKKAD.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A. NO. 3584/2003 IN W.P.(C). NO. 17884/2003-D

DISMISSED

03/08/2007. **SD/- PIUS C. KURIAKOSE, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE SALE DEED NO. 1353/76.

EXT.P.2: COPY OF THE DOCUMENT NO. 1352/76.

EXT.P.3: COPY OF THE DOCUMENT NO. 2703/94.

EXT.P.4: COPY OF THE DOCUMENT NO. 2702/94 DTD. 07/12/1994.

EXT.P.5: COPY OF THE ORDER DTD. 10/01/2003 ISSUED BY THE DISTRICT COURT, PALAKKAD, I.A. NO. 8/03 IN I.A. 953/94 IN O.S. 1/64.

EXT.P.5: COPY OF THE INTERIM ORDER IN C.M.P. NO. 8972/03 IN O.P. NO. 5072/03 DTD. 13/02/03.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 17884 of 2003

Dated this the 3rd day of August , 2007

JUDGMENT

In this Writ Petition filed under Article 226 and 227 of the Constitution of India, the petitioners challenge Ext.P5 order passed by the District Court, Palakkad and also seek proper direction to 18th respondent viz. the Advocate Receiver in O.S.No.1/64, District Court, Palakkad not to disturb or interfere with the peaceful possession and enjoyment of the property covered by Exts.P1, P2 and P3 title deeds pursuant to Ext.P5 order. According to the petitioners, Ext.P5 order will cause serious prejudice to them and it is without notice to them that Ext.P5 order has been issued by the learned District Judge. My attention was drawn by the learned counsel for the petitioners to the judgment of this court in O.P.No.5072/2003 and I have called of the judges paper pertaining to that Original Petition. It is seen that in that Original Petition also the very same question

has been raised. O.P.5072/2003 was disposed of by this court on the basis of the statement submitted by the Joint Receivers in O.S.No.1/64 that they do not to disturb or interfere with the possession of the petitioners in that case and that eviction notice had been issued to those petitioners on a mistake of facts. According to the petitioners, the factual and legal position in this case is similar.

2. Since the factual and legal position of the petitioners is claimed to be similar to that of the petitioners in O.P.5072/2003, I dispose of this Writ Petition permitting the petitioners to file necessary application before the District Court for review or modification of Ext.P5 order. If the court finds that the factual and legal situation of the petitioners is similar to that of the petitioners in O.P.5072/2003, the court will pass appropriate orders on the application, submitted by the petitioners.

PIUS C. KURIAKOSE,
JUDGE.

dpk

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 17884 of 2003

JUDGMENT

3RD AUGUST 2007